

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
WAIMEA WASTEWATER COMPANY, INC.)
For Review and Approval of Rate)
Increases; Revised Rate)
Schedules.)
_____)

DOCKET NO. 2008-0261

ORDER REGARDING COMPLETED
APPLICATION AND OTHER INITIAL MATTERS

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ORDER REGARDING COMPLETED
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By this Order, the commission approves WAIMEA WASTEWATER COMPANY, INC.'s ("Waimea") request to submit its unaudited financial statements in lieu of an audited balance sheet, required under Hawaii Administrative Rules ("HAR") § 6-61-75(b)(1), provided that Waimea make available for review all documentation supporting its financial statements to the commission and the Consumer Advocate.¹ The commission also finds that Waimea's application is complete and properly filed under HRS § 269-16(f) and HAR § 6-61-88.² Thus, the filing date of Waimea's completed Application is October 14, 2008. Finally, the commission instructs the Parties to file a stipulated procedural order for the commission's review and approval within

¹The DIVISION OF CONSUMER ADVOCACY, DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS ("Consumer Advocate"), is an ex officio party to this proceeding pursuant to Hawaii Revised Statutes ("HRS") § 269-51 and HAR § 6-61-62. Waimea and the Consumer Advocate are hereafter jointly referred to as the "Parties."

²Waimea's Application; Exhibits WWC 1 through WWC 12; Exhibit WWC-T-100; Verification; and Certificate of Service, filed on October 14, 2008 ("Application"). Copies of the Application were served on the Consumer Advocate.

fourteen days of the commission's order addressing intervention or participation without intervention; or if no intervention motions are filed, within seven days of the deadline for intervention. If the Parties are unable to stipulate to a procedural order, the commission will issue its own procedural order that complies with the time requirements of HRS § 269-16(f)(3).

I.

Background

Waimea is a public utility that provides wastewater utility services, including the collection and treatment of wastewater within its authorized service area on the island of Hawaii.³

On October 14, 2008, Waimea filed its Application, requesting approval of a rate increase and revised rate schedules and rules. Specifically, Waimea requests commission approval of a net revenue increase of \$293,615, or an approximate 126% increase from the pro forma revenue amount of \$232,704 at present rates for the 2009 test year. In addition, Waimea seeks approval to establish an Automatic Power Cost Adjustment Clause for its service to allow it to increase or decrease the rates based on any corresponding increase or decrease in its cost for electricity.

³Waimea was granted a certificate of public convenience and necessity in Decision and Order No. 16167, filed on January 22, 1998, in Docket No. 96-0209.

Furthermore, Waimea requests, pursuant to HAR § 6-61-92, that its unaudited financial statements, submitted with its Application, be accepted in lieu of audited financial statements as required under HAR § 6-61-75(b)(1) ("Waiver Request").

On October 30, 2008, the Consumer Advocate filed its Statement of Position Regarding Completeness of Application ("Statement Regarding Completeness"), stating that it does not object to the completeness of Waimea's Application.

II.

Discussion

Waimea is a public utility with annual gross operating revenues of less than \$2 million. As such, Waimea filed its Application under HAR § 6-61-88 (Requirements for General Rate Increase Applications by a Public Utility with Annual Gross Operating Revenues of Less than \$2,000,000) and HRS § 269-16(f). Under HRS § 269-16(f), the commission must make every effort to issue its proposed decision and order within six months from the filing date of Waimea's completed Application, "provided that all parties to the proceeding strictly comply with the procedural schedule established by the commission and no person is permitted to intervene." HRS § 269-16(f)(3).

A.

Waiver Request

HAR Chapter 6-61, Subchapter 8, governs rate increase applications and tariff changes. In relevant part, HAR § 6-61-86 requires a public utility requesting authority to change its rate, schedule, or charge to file an application, and a financial statement under HAR § 6-61-75. HAR § 6-61-75(b)(1) requires that financial statements be accompanied by "[a]n audited balance sheet, including any pertinent notations and explanations contained therein, as of the end of the last calendar year[.]" HAR § 6-61-75(b)(1).

Under HAR § 6-61-92, the commission may modify the requirements of Subchapter 8, HAR Chapter 6-61, in its discretion, if the requirements of the subchapter would impose a financial hardship on the applicant or be unjust or unreasonable. Further, under HRS § 269-16(f), the commission is authorized to amend its rules and procedures "to provide the commission with sufficient facts necessary to determine the reasonableness of the proposed rates without unduly burdening the utility company and its customers." HRS § 269-16(f).

Waimea requests, pursuant to HAR § 6-61-92, that its unaudited financial statements (submitted with its Application as Exhibit WWC 2), be accepted in lieu of audited financial statements as required by HAR § 6-61-75(b)(1). It contends that as a small utility with annual revenues "substantially" less than \$2 million, Waimea does not have audited financial reports and that compliance with the requirement would: (1) delay the filing

of the Application; and (2) unjustly impose on Waimea additional financial burdens.⁴

The Consumer Advocate does not object to approval of Waimea's Waiver Request, provided that Waimea makes available for review all documentation supporting its financial statements, including all accounting books and records.⁵

The commission finds that the requirement for Waimea to submit an audited balance sheet pursuant to HAR § 6-61-75(b)(1) appears unduly burdensome, and thus, is unjust and unreasonable in this instance. Accordingly, the commission finds good cause to approve Waimea's Waiver Request, subject to the Consumer Advocate's proposed condition.

B.

Completed Application

Upon review, the commission finds that Waimea's Application is complete and properly filed under HRS § 269-16(f) and HAR § 6-61-88, and therefore, concurs with the Consumer Advocate's assessment regarding the completeness of the Application. Accordingly, the filing date of Waimea's completed Application is October 14, 2008.

⁴Application, at 11.

⁵Statement Regarding Completeness, at 3.

C.

Stipulated Procedural Order

The commission interprets HRS § 269-16(f)(3) to require the commission to issue a procedural order that allows the commission to complete its review and issue its proposed decision and order within the six-month period prescribed in HRS § 269-16(f)(3). For this reason, the Parties are instructed to: (1) initiate the discovery process without delay; and (2) submit a stipulated procedural order setting forth the issues, procedural schedule, and procedures to govern Waimea's Application, within fourteen days of the commission's order addressing intervention or participation without intervention; or if no intervention motions are filed, within seven days of the deadline for intervention. If intervention is not granted, the stipulated procedural schedule to be submitted by the Parties shall, at a minimum, provide that: (1) Waimea's rebuttal testimony (or rebuttal statement of position), if any, be filed by Friday, March 6, 2009; and (2) the Parties' settlement agreement, if any, be filed by Friday, March 13, 2009, in order for the commission to reasonably meet the six-month deadline of April 14, 2009. If the Parties are unable to agree on a procedural order, as prescribed, the commission will issue its own procedural order in accordance with HRS § 269-16(f)(3).

Under HRS § 269-16(f)(3), in the event that the conditions of the subsection are fully met (i.e., the Parties strictly comply with the established procedural schedule and no person is granted intervention), the Parties shall not be

entitled to a contested case hearing prior to the issuance of the commission's proposed decision and order.

III.

Orders

THE COMMISSION ORDERS:

1. Waimea's request to submit its unaudited financial statements in lieu of an audited balance sheet, required under HAR § 6-61-75(b)(1), is approved; provided that Waimea make available for review all documentation supporting its financial statements, including all accounting books and records, to the commission and the Consumer Advocate.

2. The filing date of Waimea's completed Application is October 14, 2008.

3. The Parties shall: (a) initiate the discovery process without delay; and (b) unless directed otherwise, submit a stipulated procedural order setting forth the issues, procedural schedule, and procedures to govern Waimea's Application, within fourteen days of the commission's order addressing intervention or participation without intervention; or if no intervention motions are filed, within seven days of the deadline for intervention. If no motions to intervene are granted, the stipulated procedural schedule to be submitted by the Parties shall, at a minimum, provide that: (1) Waimea's rebuttal testimony (or rebuttal statement of position), if any, be filed by Friday, March 6, 2009; and (2) the Parties' settlement agreement, if any, be filed by Friday, March 13, 2009,

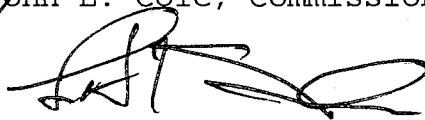
in order for the commission to reasonably meet the six-month deadline of April 14, 2009. If the Parties are unable to agree on a procedural order, as prescribed, the commission will issue its own procedural order in accordance with HRS § 269-16(f)(3).

DONE at Honolulu, Hawaii DEC 19 2008.

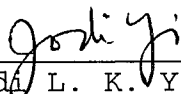
PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By 
Carlito P. Caliboso, Chairman

By 
John E. Cole, Commissioner

By 
Leslie H. Kondo, Commissioner

APPROVED AS TO FORM:


Jodi L. K. Yi
Commission Counsel

2008-0261.cp

CERTIFICATE OF SERVICE

The foregoing order was served on the date of filing by mail, postage prepaid, and properly addressed to the following parties:

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